

### **REMARKS**

The present amendment and remarks are submitted in response to a Final Office Action issued on April 15, 2008. claims 1-8, 17, 23, 26-28, 34, 37-40, 46, 49, 62, 63, 72, 77, 122 and 133-147 are pending in the application, of which claims 1, 5, 49 and 77 are amended herewith.

#### **Drawings**

The Examiner indicated that the drawings stand objected to since some of the figures are not labeled correctly. Applicants file herewith a set of formal drawings where the figure numbers are correctly labeled. It is believed that the objection is overcome by said formal drawings.

#### **Claim objections**

Claim 49 stand objected to due to a sentence having inadvertently included in the claim. Applicants amended the claim to incorporate the sentence in the claim.

Claim 77 stands objected to since it is depending on a cancelled claim. The dependency of claim 77 is amended so that the claim now depends on pending claim 62.

#### **Claim rejections – 35 USC §112**

Claims 17, 23, 28 and 34 stand rejected under 35 USC 112 in that the phrase "at least one other imaging modality" is considered to be new matter. Applicants respectfully disagree with the rejection and refer to Fig. 9 of the application where an imaging modality 60 is shown. This is also described in paragraphs 121-124 of the application as published. Specifically, the following is stated in paragraph 117: "The 3D data may be projected and displayed along with 3D imaging data derived from an imaging modality using a shared presentation device as described elsewhere herein." Accordingly, applicants submit that the phrase "at least one other imaging modality" is well based in the application as filed.

#### **Claim rejections – 35 USC §102**

Claims 1-8, 17, 23, 26, 28, 34, 37, 39-40, 46, 49, 62-63, 72 and 77 stand rejected under 35 USC 102(e) as being anticipated by Weinberg (US 6,628,984). Applicants respectfully traverse the rejection and submit that the Examiner has not provided a *prima facie* case of anticipation since the Examiner did not show where all the elements of the claims are found in the art.

Claims 1 and 5 are the only pending independent claims in the application. claim 1 recites "wherein said first and at least second radioactive emission detectors

are configured for scanning a three dimensional surface, while following contours of said three dimensional surface". Similarly, claim 5 recites "(b) employing said radioactive emission detectors in scanning a three dimensional surface, while following contours of said three dimensional surface". The Examiner did not show where or how Weinberg is following the contour of the three dimensional surface. Accordingly, applicants respectfully request that the Examiner issue a new office action and refers to said element of the claims.

Nevertheless, applicants have amended claims 1 and 5 to make explicit what was already implicit, to replace the term "flexible connector" with "flexible connection" and include the further recitation in claim 1: "wherein said flexible connection constrains said first and second radioactive emission detectors to point towards the vicinity of said radioactivity emitting source ". A similar recitation was also added to method claim 5. This is not taught nor suggested by Weinberg.

The flexible connector of Weinberg, as indicated by the Examiner, are cables connecting the cameras to a data acquisition device. These cables do not constrain the cameras, in particular, the cables of Weinberg do not constrain the cameras to point towards a specific area, such as the vicinity of a radioactivity emitting source. Accordingly, claims 1, 5 and the claims dependent thereon are patentable over Weinberg.

#### **Claim rejections – 35 USC §103**

Claims 27, 38, 122 and 133 stand rejected under 35 USC 103(a) as being unpatentable over Weinberg in view of Wainer (US 5,871,013).

Claims 134, 140, 146 and 147 stand rejected under 35 USC 103(a) as being unpatentable over Weinberg in view of Bennett (US Statutory Invention Registration H12).

All of the above claims depend directly or indirectly on claims 1 or 5. therefore, these claims are patentable at least by virtue of their patentable parent claim.

#### **Claims 135-139 and 141-145**

The Examiner states the following regarding claims 135-139 and 141-145: "With respect to claims 135-139 and 141-145, Weinberg places the camera within a body cavity or to be used intraoperatively,..."

It is not clear to applicants whether claims 134-139 and 141-145 stand rejected under 35 USC 102 or 35 USC 103. In addition, the Examiner did not specifically state what art is cited against these claims. Accordingly, applicants respectfully request that the Examiner issue a new office action and specifically indicate the rejection against claims 134-139 and 141-145. In any event, applicants submit that claims 134-139 and 141-145 are patentable at least by virtue of their patentable parent claims.

**Conclusion**

In view of the foregoing, it is respectfully submitted that all the claims now pending in the application are allowable. A notice thereof is respectfully requested.

Respectfully submitted,



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**Enclosure:**

- Replacement Figures
- Petition for Extension (One Month)